REMARKS

This is a full and timely response to the outstanding final Office Action mailed January 17, 2008 (Paper No. 20080109). Upon entry of this response, claims 45-62, 67, and 70-73 are pending in the application. Applicant respectfully requests that there be reconsideration of all pending claims.

I. Initial Matters

The Office Action Summary indicates that claims 45-62 are rejected. However, the body of the Office Action does not include a specific rejection for claim 60. Applicant assumes herein that claim 60 is rejected using the same reasoning applied to claims 46 and 53.

II. Allowable Claims

Applicant acknowledges the indication that claims 67 and 70-73 are allowable.

III. Rejection of Claims 45-49, 52-56, 59, and 60 under 35 U.S.C. §102

Claims 45-49, 52-56, 59, and 60 have been rejected under §102(b) as allegedly anticipated by *Normile et al.* (U.S. 5,541,995). Applicant respectfully traverses this rejection. A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim. *See, e.g.*, *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983).

A. Independent Claims 45, 52, and 59

1. *Normile et al.* does not disclose, teach, or suggest "re-sequencing the series of multi-media data flow packets into a pseudo-random order"

The Office Action (p. 1) contends that *Normile et al.* discloses this feature in "Figure 7 and its related text in column 7, lines 64-67 and Col. 8, lines 1-25". The reasoning of the rejection is explained as follows:

> …Normile teaches that the encoding function is accomplished by combining the plaintext data with a sequence of random numbers

generated by a Pseudo-random Number (PN) generator within the transmitter. The PN generator within the transmitter generates a unique Pseudo-random Number (PN) packet sequence of binary digits or numbers in response to a seed input. Each PN packet generated is at least as long as the longest plaintext data packet received from the source. The PN packets and plaintext data packets are combined preferably in an XOR gate. This combination produces ciphertext/re-sequenced packets.
(Office Action, p. 1)

The Office Action thus appears to allege that the generation of ciphertext packets as disclosed in *Normile et al.* corresponds to the feature "re-sequencing the series of multi-media data flow packets into a pseudo-random order" as recited in claims 45, 52, and 59.

Applicant respectfully disagrees. The section of *Normile et al.* that is cited by the Office Action describes three different sets of packets: plaintext packets 82 are received by a transmitter 80; pseudorandom number (PN) packets 86 are generated by PN generator 88 within transmitter 80; ciphertext packets 84 are produced by combining the PN packets 86 and plaintext data packets 82 in an XOR gate 90. (Col. 8, lines 10-25.) In contrast, claims 45, 52, and 59 recite "<u>a series</u> of multi-media data flow packets", and further recite that the packets within <u>this series</u> are re-sequenced ("re-sequencing the series of multi-media data flow packets into a pseudo-random order"). Applicant submits that the ciphertext packets 84 in *Normile et al.* cannot be properly considered to be a ***re-sequencing of the plaintext packets 82***, since the ciphertext packets 84 are not the same as the plaintext packets 82. Similarly, the ciphertext packets 84 in *Normile et al.* cannot be properly considered to be a ***re-sequencing of the PN packets 86***, since the ciphertext packets 84 are not the same as the PN packets 86.

2. *Normile et al.* does not disclose, teach, or suggest "storing the series of multi-media data flow packets in a jitter buffer"

Although the Office Action (p. 3) makes a general allegation that *Normile et al.* discloses this feature, the Office Action does not point to any specific teachings of the reference, making it difficult for Applicant to fairly respond to the rejection. Applicant has reviewed *Normile et al.* and can find no relevant teaching that can properly correspond to this feature.

The MPEP states "[w]here a claim is rejected for any reason relating to the merits thereof if should be 'rejected' and the ground of rejection fully and clearly stated". MPEP § 707.07(d). Accordingly, Applicant respectfully submits that the next Office Action must be made non-final, since a more completely stated rejection would necessarily constitute "new grounds" that are not necessitated by amendment.

3. Conclusion

For at least the reason that *Normile et al.* fails to disclose, teach, or suggest the above-described features, Applicant respectfully submits that *Normile et al.* does not anticipate claims 45, 52, and 59. Therefore, Applicant requests that the rejection of claims 45, 52, and 59 be withdrawn.

B. Dependent Claims 49 and 56

Normile et al. does not disclose, teach, or suggest "wherein said bit-size operation comprises negation". The Office Action (p. 4) contends that *Normile et al.* discloses this feature in Col. 5 lines 12-19. More specifically, the Office Action states that "the encoder preferably comprises a conventional exclusive-or gate". Thus, the Office Action appears to equate the XOR function with "negation". Applicants respectfully disagree, and note that the Office Action has not provided any evidence for a definition of negation that is equivalent to XOR. According to Wikipedia, "[i]n logic and mathematics, negation or not is an operation on logical values, for example, the logical value of a proposition, that sends true to false and false to true."

Furthermore, since independent claims 45 and 56 are allowable, Applicant respectfully submits that claims 49 and 56 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicant respectfully requests that the rejection of claims 49 and 56 be withdrawn.

C. Dependent Claims 46-48, 53-55, and 60

Since independent claims 45, 52, and 59 are allowable, Applicant respectfully submits that claims 46-48, 53-55, and 60 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicant respectfully requests that the rejection of claims 46-48, 53-55, and 60 be withdrawn.

IV. Rejection of Claims 50-51, 57-58, and 61-62 under 35 U.S.C. §103

Claims 50-51, 57-58, and 61-62 have been rejected under §103(a) as allegedly obvious over *Normile et al.* (5,541,995) in view of *Fink et al.* (6,826,684). Applicant respectfully traverses this rejection. It is well established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest (either implicitly or explicitly) all elements/features/steps of the claim at issue. *See, e.g., In re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

The addition of *Fink et al.* does not cure the deficiencies of *Normile et al.* discussed above in connection with independent claims 45, 52, and 59. Therefore, the combination does not disclose, teach, or suggest all the features of dependent claims 50-51, 57-58, and 61-62. Claims 50-51, 57-58, and 61-62 are also allowable for the additional reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicant respectfully requests that the rejection of claims 46-48, 53-55, and 60 be withdrawn.

CONCLUSION

Applicant respectfully requests that all outstanding objections and rejections be withdrawn and that this application and presently pending claims 45-62, 67, and 70-73 be allowed to issue. Any statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. If the Examiner has any questions or comments regarding Applicant's response, the Examiner is encouraged to telephone Applicant's undersigned counsel.

Respectfully submitted,

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